IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

WP(C).No. 20204 of 2007(E)

PETITIONER:

A.SHAJAHAN,
FORMERLY JUNIOR ACCOUNTANT, KOLLAM DISTRICT CO-OPERATIVE BANK, RESIDING AT THENGUVILA PUTHEN VEEDU, PADINJATTINKARA, KOTTARAKKARA.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS:

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1. KOLLAM DISTRICT CO-OPERATIVE BANK,
REP. BY GENERAL MANAGER, KOLLAM.

2. JOINT REGISTRAR,
OFFICE (GENERAL) OF THE JOINT REGISTRAR(GENERAL), KOLLAM.

3. REGISTRAR OF CO-OPERATIVE SOCIETIES,
OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES, TRIVANDRUM.

4. STATE OF KERALA, REP. BY PRINCIPAL,
SECRETARY TO GOVERNMENT, CO-OPERATION (B) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K.BASHEER, J.

W.P.(C)No.20204 OF 2007

Dated this the 9th day of July, 2007

JUDGMENT

Petitioner was admittedly charge sheeted by the Bank wherein he was working as a Junior Accountant on the allegation that he had misappropriated a total sum of Rs.21,67,051 in connivance with certain other officials. He was suspended from service by order dated July 14, 2001. A copy of the said order is on record as Ext.P1. It is also not in dispute that petitioner was subsequently served with a memo of charges. The enquiry officer found the petitioner guilty though other officials were exonerated. The enquiry report was accepted and petitioner was removed from service with effect from July 14, 2001 by order dated October 1, 2005.

2. It is contended by the petitioner that subsequently the Suspension Review Committee of the Government had at its meeting held on December 19, 2006 conducted an enquiry and found the petitioner not guilty. It is also contended by him that the Committee had decided to recommend reinstatement of the petitioner and post him in a non-sensitive post. Accordingly,

Government had directed the Registrar of Co-operative Societies to take appropriate action in the matter. It appears that the Registrar in turn had directed respondent no.1, Kollam District Co-operative Bank to comply with the above direction. In turn, the Joint Registrar had also issued a direction to respondent no.1 to reinstate the petitioner.

3. Learned counsel submits that respondent no.1 is bound to comply with the direction issued by the Registrar and the Joint Registrar. The Suspension Review Committee had exonerated the petitioner and it was directed that he be reinstated in service and accommodated against a non sensitive post.

4. The petitioner has not produced the order that is stated to have been passed by the Suspension Review Committee before this court. It is not revealed from the materials available on record on what ground the Suspension Review Committee had taken such a decision.

5. It is admitted by the petitioner himself that the charge against him was that he along with the other officials had misappropriated a huge sum of Rs.21,67,051. The enquiry

officer had found the petitioner guilty. The report was considered by the disciplinary authority and petitioner was removed from service on the basis of the said report. Petitioner does not have a case that he had, at any point of time, challenged the order of termination. Such an averment is conspicuously absent in the writ petition also. Thus, it had become final. It is not seen under what authority or on what basis the Suspension Review Committee had found the petitioner not guilty.

6. In the absence of any such material on record, I am not satisfied that this court should issue a direction to respondent no.1 to reinstate the petitioner so long as the order of termination of the service of the petitioner has not been challenged and so long as it has become final and conclusive. Anyhow, I am not satisfied that this is a fit case to invoke the discretionary jurisdiction under Article 226 of the Constitution in aid of the petitioner. It will be a disservice to the society.

Writ petition is dismissed in the above terms.

A.K.BASHEER, JUDGE

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